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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	CC Docket No. 98-14
)	
Number Portability Query Services)	
)	
Ameritech Tariff F.C.C. No. 2,)	CCB/CPD 98-26
Transmittal No. 1149, as Amended)	
)	
Bell Atlantic Tariff F.C.C. No. 1,)	CCB/CPD 98-25
Transmittal No. 1041)	
)	
Pacific Bell Tariff F.C.C. No. 128,)	CCB/CPD 98-23
Transmittal Nos. 1927 and 1973)	
)	
Southwestern Bell Tariff F.C.C. No. 73,)	CCB/CPD 98-17
Transmittal Nos. 2638 and 2694)	

COMMENTS OF NEXTEL COMMUNICATIONS, INC.

I. INTRODUCTION

Pursuant to the Federal Communications Commission's ("Commission") *Order Designating Issues for Investigation* in the above-referenced matter, Nextel Communications, Inc. ("Nextel"), by its attorneys, hereby submits these comments on number portability query services.^{1/} In the *Designation Order*, the Commission requested comment on tariffs filed by Ameritech, Bell Atlantic, Pacific Bell and Southwestern Bell offering number portability query services to other carriers on a prearranged or

^{1/} See Number Portability Query Services, *Order Designating Issues for Investigation*, CC Docket No. 98-14, released June 17, 1998 ("*Designation Order*").

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default basis.^{2/} Nextel respectfully requests that the Commission establish as a priority in its investigation uniform nationwide practices and rate structures for number portability services consistent with its intent to implement long-term local number portability ("LNP") in a consistent, efficient and expeditious manner.^{3/}

II. BACKGROUND

Nextel is the largest nationwide provider of wide-area, digital Specialized Mobile Radio ("SMR") services, providing an integrated package of mobile telecommunications services to the public. In its *Number Portability Order*, the Commission concluded that wide-area SMR providers are required to provide local number portability.^{4/} Thus, Nextel and other wide-area SMR providers must have the capability of delivering calls from their networks to ported numbers by December 31, 1998 and offer service provider LNP by June 30, 1999.^{5/}

^{2/} *Id.* at 4.

^{3/} In addition, the service providers subject to investigation should explain how, given that they utilize essentially the same manufacturers and software vendors in providing LNP services, they could report such varying costs and rates. According to Nextel's calculations, some of the rates filed for LNP query services vary by as much as 350 percent.

^{4/} Telephone Number Portability, *First Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Rcd 8352, 8355 (1996) ("*Number Portability Order*").

^{5/} *Id.*

Due to the unavailability of the software upgrades necessary to support these functionalities, however, Nextel cannot perform the queries necessary to route ported numbers or implement LNP for its customers at this time. As a result, Nextel has no choice but to purchase number portability query services from the incumbent local exchange carriers ("ILECs") or a third party vendor, at least over the short run.

The tariffs submitted by Ameritech, Bell Atlantic, Pacific Bell and Southwestern Bell offering LNP query services contain differing rate structures, terms and practices.^{6/} In addition, U S West recently submitted its own tariff for number portability query services with distinct rates, terms and conditions.^{7/} As a nationwide provider of SMR services, Nextel is faced with an irreconcilable array of inconsistent rates, terms and conditions for the same LNP query service. As described below, the Commission should require a consistent approach in ILEC portability query tariffs, using nationwide standards based on

^{6/} Compare Ameritech Tariff F.C.C. No. 2, Transmittal No. 1149, filed March 31, 1998, at 18th Revised Page 228 (charging \$.005232 per default query from a tandem office for calls to NXX codes from which a number is or has been ported), with Bell Atlantic Tariff F.C.C. No. 1, Transmittal No. 1041, filed April 6, 1996, at 3rd Revised Page 890.23 (charging \$.0026250 per default query from a tandem office for calls to any NXX opened for portability).

^{7/} See U S West Tariff F.C.C. No. 5, Transmittal No. 931, filed July 2, 1998.

the best practices as proposed in the various tariffs filed with the Commission.

III. DISCUSSION

The Commission has demonstrated a preference for uniformity where uniformity aids the development of new services and competition.^{8/} The Commission reiterated this preference in the *Number Portability Order*. There, the Commission determined that national uniformity of long-term number portability methods was necessary to ensure the efficient functioning of the public switched telephone network and to reduce the costs of implementation.^{9/} The Commission also has adopted national rules governing key implementation issues, such as call flow processing.^{10/} Consistent with this preference for national uniformity and to ensure some level of consistency for carriers operating on a nationwide basis, the Commission should require reasonable uniformity of ILEC number portability query tariffs.

^{8/} See, e.g., Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, *First Report and Order*, 11 FCC Rcd 15499, 15657 (1996) (emphasizing the importance of uniform national requirements) (subsequent history omitted) ("*Local Competition Order*"); Performance Measurements and Reporting Requirements for Operations Support Systems, Interconnection, and Operator Services and Directory Assistance, CC Docket No. 98-56, released April 17, 1998, ¶¶ 4, 21.

^{9/} *Number Portability Order*, 11 FCC Rcd at 8377.

^{10/} See *Second Report and Order*, 12 FCC Rcd at 12314 (adopting the North American Number Council's Provisioning Process Flows).

To ensure that such services are reasonably uniform, in the context of this investigation, the Commission should first require ILECs to conform their rates and practices to those the Commission has already articulated.^{11/} Second, the Commission must exercise its authority to determine what tariffing policies, among the different ILEC tariffing approaches, best captures the Commission's prior conclusions regarding implementation of LNP.^{12/}

Unfortunately, the tariffs now before the Commission are full of inconsistencies. For example, Ameritech and U S West

^{11/} The tariffs under investigation were filed prior to adoption of the Commission's cost recovery regime. Indeed, the ILEC Direct Cases appear generally to admit that their tariffs are not in conformance with the Commission's present requirements. See, e.g., Direct Case of Bell Atlantic, Number Portability Query Services, CC Docket No. 98-14, filed July 1, 1998, at 1 (stating that Bell Atlantic's tariff does not follow the Commission's LNP cost recovery rules) ("*Bell Atlantic Direct Case*"); Consolidated Response of Southwestern Bell Telephone Company and Pacific Bell to Order Designating Issues for Investigation, Number Portability Query Services, CC Docket No. 98-14, filed July 1, 1998, at 2 (stating that the accuracy of the tariff information was limited because it was prepared prior to adoption of the Commission's LNP cost recovery rules) ("*SBC Direct Case*").

^{12/} Indeed, in its *Local Competition Order*, the Commission concluded that it was good policy to adopt benchmarks or best practices. See *Local Competition Order*, 11 FCC Rcd at 15606 (using best practices to establish technically feasible points of interconnection). The Commission also concluded that best practices should govern OSS implementation. See Remarks by Chairman Reed Hundt to State Commissioners on the Bell Atlantic/NYNEX Merger, October 3, 1997 ("[T]he FCC imposed in the Bell Atlantic-Nynex merger a set of commitments and conditions that are drawn from the best practices of all the states in the region."). See also Consent to Transfer Control of NYNEX and its Subsidiaries, *Memorandum Opinion and Order*, 12 FCC Rcd 19986, 20070 (1997) (establishing OSS conditions to merger approval).

demonstrate that it is both technically and economically feasible to assess query charges only for calls to NXXs to which at least one telephone number has been ported.^{13/} Bell Atlantic and SBC, however, insist that querying and its charges should begin as soon as a switch is upgraded, even before a single number has actually been ported.^{14/} Because charging only after a number has been ported is less costly for competing carriers, including wireless service providers, the Commission should adopt this practice as the benchmark or "best practice" for number portability query services.^{15/} Moreover, the Commission should

^{13/} See Ameritech Tariff F.C.C. No. 2, Transmittal No. 1149, filed March 31, 1998, at 2nd Revised Page 166.4.1 (stating that Ameritech will only query terminating calls to numbers in the network with NXX codes *from which a number is or has been ported* that have been designated as number portable)(emphasis added); U S West Tariff F.C.C. No. 5, Transmittal No. 931, filed July 2, 1998, at Original Page 13-41.13 (indicating that U S West, for calls to the company's end office switch, will only launch a query for ported numbers and, for calls to the company's tandem, only query calls to an NXX code with one or more ported numbers).

^{14/} See *Bell Atlantic Direct Case* at 7; *SBC Direct Case* at 24-25. This approach is unlawful because it is inconsistent with the Commission's adoption of the NANC's call flow processing model adopted in the *Second Report and Order*. *Second Report and Order*, 12 FCC Rcd at 12314.

^{15/} In its *Designation Order*, the Commission requested comment on "whether imposing query charges on calls to number portable NXXs is reasonable given the absence of a need to query if no number has ported from an NXX." *Designation Order* at 8. In their consolidated direct case, Southwestern Bell and Pacific Bell provide evidence that the cost difference between the two approaches is less than 1.5 percent. *SBC Direct Case* at 28, Appendix C. Thus, adoption by the Commission of the Ameritech

(continued...)

follow the same approach in its analysis of all aspects of number portability query tariffs, including costs, allocation of costs between query service and the ILEC's cost recovery, and other terms and conditions of each tariff.

As the Commission stated in its *Number Portability Order*, the goal of LNP is to promote competition among providers of local telephone and other telecommunications services.^{16/} There is no competitive benefit, however, to querying calls to NXXs when no number is or has been ported. The Commission should not permit ILECs to use the implementation of LNP simply to create a new revenue stream from services that provide no competitive benefit.

IV. CONCLUSION

Under the terms of Telecommunications Act of 1996, the Commission was given exclusive jurisdiction over LNP and its related cost recovery matters. The Commission should use its unquestioned authority to achieve uniform nationwide querying protocol methods and practices. In this investigation, the Commission should compare each ILEC's rates and practices for number portability query services and require, to the extent possible, the ILECs to adopt uniform query service offerings.

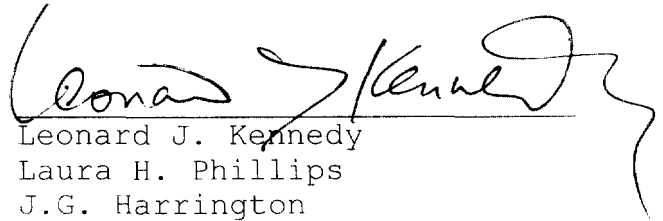
^{15/} (...continued)
and U S West approach would not substantially affect query rates.

^{16/} *Number Portability Order*, 11 FCC Rcd at 8366.

Such an approach facilitates the nationwide provision of competitive wireless services and is in the public interest.

Respectfully submitted,

NEXTEL COMMUNICATIONS, INC.



Leonard J. Kennedy
Laura H. Phillips
J.G. Harrington

DOW, LOHNES & ALBERTSON, PLLC
1200 New Hampshire Ave., N.W.
Suite 800
Washington, D.C. 20036
(202) 887-2000

July 10, 1998

Its Attorneys

CERTIFICATE OF SERVICE

I, Joslin Arnold, a secretary at Dow, Lohnes & Albertson, PLLC, do hereby certify that on this 10th day of July, 1998, a copy of the foregoing Comments of Nextel Communications, Inc. was sent by hand delivery where indicated, and U.S. mail to the following:

The Honorable
William E. Kennard, Chairman*
Federal Communications
Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

The Honorable
Susan Ness, Commissioner*
Federal Communications
Commission
1919 M Street, N.W., Room 832
Washington, D.C. 20554

The Honorable
Harold Furchtgott-Roth*
Commissioner
Federal Communications
Commission
1919 M Street, N.W., Room 802
Washington, D.C. 20554

The Honorable
Michael Powell, Commissioner*
Federal Communications
Commission
1919 M Street, N.W., Room 844
Washington, D.C. 20554

The Honorable
Gloria Tristani, Commissioner*
Federal Communications
Commission
1919 M Street, N.W., Room 826
Washington, D.C. 20554

Magalie R. Salas, Esquire*
Secretary
Federal Communications
Commission
1919 M Street, N.W.
Washington, D.C. 20554

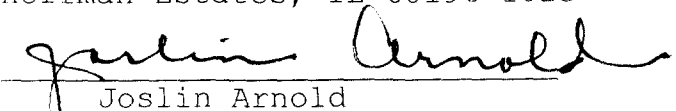
Competitive Pricing Division*
Common Carrier Bureau
Federal Communications
Commission
1919 M Street, N.W., Room 518
Washington, D.C. 20554

ITS*
1231 20th Street, N.W.
Washington, D.C. 20036

John M. Goodman
Bell Atlantic
1300 I Street, N.W.
Washington, DC 20005

Robert M. Lynch
Durward D. Dupre
David F. Brown
Hope Thurrott
Southwestern Bell/Pacific Bell
175 E. Houston, Room 4-C-90
San Antonio, TX 78205

Larry A. Peck
Ameritech
Room 4H86
2000 West Ameritech Center Dr.
Hoffman Estates, IL 60196-1025


Joslin Arnold